

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 3626	DATE	6/20/2000
CASE TITLE	Telemark Development vs. John P. Mengelt		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Order. Telemark is allowed until June 27, 2000 to file in this Court's chambers a suitable amendment to the Complaint specifying Mengelt's state of citizenship, failing which this Court would be constrained to dismiss this action for lack of subject matter jurisdiction.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices	<div>Document Number</div> <div style="font-size: 2em; text-align: center;">7</div>
<input type="checkbox"/>	No notices required.		JUN 21 2000	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		date docketed	
<input type="checkbox"/>	Notified counsel by telephone.		docketing deputy initials	
<input type="checkbox"/>	Docketing to mail notices.		6/20/2000	
<input type="checkbox"/>	Mail AO 450 form.		date mailed notice	
<input type="checkbox"/>	Copy to judge/magistrate judge.		SN	
<div>SN</div> <div>courtroom deputy's initials</div>		Date/time received in central Clerk's Office	mailing deputy initials	

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TELEMARK DEVELOPMENT GROUP, INC.,)
)
Plaintiff,)
)
v.) No. 00 C 3626
)
JOHN P. MENGELT,)
)
Defendant.)

DOCKETED
JUN 21 2000

MEMORANDUM ORDER

Telemark Development Group, Inc. ("Telemark") has brought this action against John Mengelt ("Mengelt"), invoking federal jurisdiction on diversity of citizenship grounds. This memorandum order is issued sua sponte to direct Telemark to cure an obvious defect in its jurisdictional allegations.

There is no problem with Telemark's identification of both facets of its corporate citizenship under 28 U.S.C. §1332(c)(1) (see Complaint ¶1), nor is there any doubt as to the existence of the requisite amount in controversy (Complaint ¶17 alleges that the stock Telemark seeks to recover has a value of some \$1.6 million). But as to Mengelt, Complaint ¶2 speaks only of his Lake Forest, Illinois residence, although by definition it is his state of citizenship that determines the presence or absence of diversity.

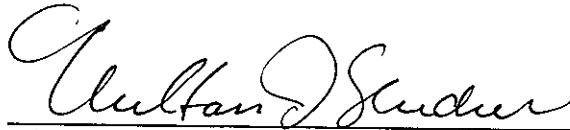
As might be expected, our Court of Appeals regularly teaches that such a flaw, if uncured, mandates dismissal for lack of subject matter jurisdiction (most recently, see Tylka v. Gerber



Prods. Co., 211 F.3d 445, 448 (7th Cir. 2000) and cases cited there). As stated in Held v. Held, 137 F.3d 998, 1000 (7th Cir. 1998), quoting Guaranty Nat'l Title Co. v. J.E.G. Assocs., 101 F.3d 57, 59 (7th Cir. 1996)):

Of course, allegations of residence are insufficient to establish diversity jurisdiction. It is well-settled that "[w]hen the parties allege residence but not citizenship, the court must dismiss the suit."

Accordingly Telemark is allowed until June 27, 2000 to file in this Court's chambers a suitable amendment to the Complaint specifying Mengelt's state of citizenship, failing which this Court would be constrained to dismiss this action for lack of subject matter jurisdiction.¹



Milton I. Shadur
Senior United States District Judge

Date: June 20, 2000

¹ Because it would seem most likely that the defect referred to here is readily curable, this Court is concurrently entering its usual order specifying an initial status hearing date and other matters on the assumption that Telemark will take the necessary step to keep this action in court.